

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CARLOS MANUEL SIERRA, *et al.*,

Plaintiffs,

vs.

DESERT PALACE, INC., *et al.*,

Defendants.

Case No. 2:12-cv-00230-GMN-CWH

ORDER

This matter was referred to the undersigned Magistrate Judge on Defendant Jesus Montano's Motion to Dismiss (#33), filed October 26, 2012.

Since Defendant's motion (#33) was filed, the complaint has been amended twice. *See* Dkt. #41 and Dkt. #48. An amended complaint supersedes the prior complaint, which is treated thereafter as nonexistent. *See Ferdik v. Bonzalet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (an amended pleading supersedes the original pleading) *citing Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). A motion to dismiss directed toward a complaint that has been superseded is, under normal circumstances, moot. *See e.g., Collins v. Winex Investments, LLC*, 2008 WL 927572 (S.D. Cal) ("[W]here a plaintiff elects to file an amended complaint, a district court may treat an existing motion to dismiss as moot."). Because the complaint toward which the motion to dismiss (#33) is directed has been superceded twice, the Court finds the motion (#33) is moot. The denials is without prejudice.

Based on the foregoing and good cause appearing therefore,

IT IS HEREBY ORDERED that Defendant Jesus Montano's Motion to Dismiss (#33) **denied as moot**. The denial is **without prejudice**.

DATED: June 21, 2013.


 C.W. Hoffman, Jr.
 United States Magistrate Judge